MT LEGISLATIVE HISTORY

Bill is 230pgs. If you want the complete copy please call the library.

Chapter 575 1981

Bill H _____ (S) 33 Original bill & hist. pg 1 only C

H. Committee on Judiciary

Hearing Date(s) Mar 24 ✓C
Mar 26 ✓C
_____ C
_____ C

Date Out Mar 26 ✓C

S. Committee on Rules / Judiciary

Hearing Date(s) Jan 12 ✓C Rules
Jan 21 ✓C Judiciary
Jan 27 ✓C Judiciary
Feb 11 ✓C Judiciary
Feb 18 ✓C Judiciary
Feb 18 ✓C Judiciary

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Note: A Free Conference Committee was appointed. Its report is included. Its minutes were not recorded.

SENATE BILL NO. 33

INTRODUCED BY GOODOVER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-11-101, MCA, is amended to read:

"1-11-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Code" or "codes" means the Revised Codes of Montana, 1947, the pocket supplements thereto, and the replacement volumes.

(2) "Recodify" means to compile, arrange, rearrange, and prepare for publication. It includes, without changing the meaning, effect, or intent of any law:

(a) correcting or changing punctuation, capitalization, spelling, grammatical construction, and numbering as required by uniform literary and bill drafting practice;

(b) substituting the appropriate new code division reference for reference to a section of, to a part of, or to an entire "act";

(c) substituting calendar date for "effective date", "hereafter", and similar terms;

(d) creating new titles, chapters, parts, sections, or other divisions of the code;

(e) changing or inserting language made necessary because of rearrangement;

(f) eliminating redundant words;

(g) when given direction or authority by another statute, correcting inaccurate or obsolete references to:

(i) titles of officers or agencies, such as those changed by executive reorganization statutes;

(ii) other code sections, such as those which have been repealed or repealed and replaced;

(h) changing inaccurate terminology to comply with statutory definitions or short form amendments, such as those found in 1-1-202(7) or 3-11-101(2);

(i) ~~whether originally written by the legislature or by the code publisher,~~ changing or creating section captions (catch lines) to clearly reflect the content of the section, unless the section captions are specifically and expressly adopted as part of the law by the legislature."

Section 2. Section 1-11-103, MCA, is amended to read:

"1-11-103. Effect of Montana Code Annotated. (1) The Montana Code Annotated shall be enacted as a reenactment of

LC 0422/01

INTRODUCED BILL

SB 33

3RD READING: 3/10, YEAS: 85; NAYS: 11

RETURNED TO SENATE WITH AMENDMENTS: 3/10
2ND READING: 3/13, BE CONCURRED IN
3RD READING: 3/14, YEAS: 47; NAYS: 0

TRANSMITTED TO GOVERNOR:$3/18/81
ACTION: 3/23, SIGNED
CHAPTER 123

SB 30 — GOODOVER — TO REPEAL THE INDIVIDUAL INCOME TAX SURTAX.
FISCAL NOTE: REQUIRED
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80
HEARING: 1/19
REPORT: 2/4, DO PASS AS AMENDED
2ND READING: 2/6, YEAS: 45; NAYS: 2
3RD READING: 2/9, YEAS: 48; NAYS: 1

TRANSMITTED TO HOUSE: 2/9
REFERRED TO COMMITTEE ON TAXATION: 2/10
HEARING: 3/4
REPORT: 4/11, BE CONCURRED IN
2ND READING: 4/13, YEAS: 81; NAYS: 1
ON MOTION, 4/13, RULES SUSPENDED AND PLACED ON 3RD READING
3RD READING: 4/13, YEAS: 93; NAYS: 1

RETURNED TO SENATE: 4/13

TRANSMITTED TO GOVERNOR: 4/14/81
ACTION: 4/18, SIGNED
CHAPTER 422

SB 31 — GOODOVER — TO PHASE OUT THE INDIVIDUAL INCOME TAX SURTAX OVER A 3-YEAR PERIOD.
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/80
HEARING: 1/19
FAILED TO MEET TRANSMITTAL DEADLINE: 4/6 — DIED

SB 32 — NORMAN — AMENDING 39-71-411 TO CLARIFY EMPLOYERS' WORKERS COMPENSATION LIABILITY.
PREFILED AND REFERRED TO COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS: 12/30/80
HEARING: 1/8
REPORT: 1/14, DO PASS
2ND READING: 1/16, YEAS: 33; NAYS: 14
3RD READING: 1/19, YEAS: 33; NAYS: 16

TRANSMITTED TO HOUSE: 1/19
REFERRED TO COMMITTEE ON LABOR: 1/20
HEARING: 2/17
REPORT: DO NOT PASS AS AMENDED, 2/19
REPORT: ADOPTED, 2/20
BILL KILLED: 2/20 YEAS: 85; NAYS: 11

SB 33 — GOODOVER — AMENDING NUMEROUS CODE SECTIONS CONSISTENT WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN 1-11-204.
PREFILED AND REFERRED TO COMMITTEE ON RULES: 12/30/80
HEARING: 1/12
RE-REFERRED TO COMMITTEE ON JUDICIARY: 1/13
HEARING: 1/21; 1/27

REPORT: 2/19, DO PASS AS AMENDED
2ND READING: 2/21, DO PASS
3RD READING: 2/24, YEAS: 50

TRANSMITTED TO HOUSE: 2/24
REFERRED TO COMMITTEE ON JUDICIARY: 3/2
HEARING: 3/24
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/28, YEAS: 72; NAYS: 4
ON MOTION, 3/30, RECOMMITTED TO 2ND READING.
2ND READING: 3/31, AS AMENDED — YEAS: 75; NAYS: 10
ON MOTION, 3/31, RULES SUSPENDED AND PLACED ON 3RD READING
3RD READING: 3/31, YEAS: 90; NAYS: 6

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/3, BE NOT CONCURRED IN
ON MOTION, 4/7, JOINT CONFERENCE COMMITTEE APPOINTED

JOINT CONFERENCE COMMITTEE REPORT: 4/9
HOUSE
2ND READING: 4/13, BE NOT CONCURRED — YEAS: 40; NAYS: 33
ON MOTION, 4/13, CONFERENCE COMMITTEE DISSOLVED
NEW CONFERENCE COMMITTEE APPOINTED
ON MOTION, 4/14, CONFERENCE COMMITTEE DISSOLVED
NEW FCC APPOINTED — SAME MEMBERS

SENATE
2ND READING: 4/13, BE CONCURRED IN
3RD READING: 4/14, YEAS: 48; NAYS: 0
ON MOTION, 4/14, RECONSIDERED, CONFERENCE COMMITTEE DISSOLVED
NEW FREE CONFERENCE COMMITTEE REQUESTED.
ON MOTION, 4/15, NEW FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/16
RE-REFERRED BACK TO COMMITTEE: 4/20

FREE CONFERENCE COMMITTEE REPORT NO. 2: 4/20
SENATE
2ND READING: 4/20, BE CONCURRED IN
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/20, YEAS: 44; NAYS: 0
HOUSE
2ND READING: 4/21, YEAS: 81; NAYS: 0
ON MOTION, 4/21, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/21, YEAS: 91; NAYS: 4

TRANSMITTED TO GOVERNOR: 4/29
ACTION: 5/1, SIGNED
CHAPTER 575

SB 34 — S. BROWN — TO ELIMINATE THE ANNUAL APPLICATION REQUIREMENT FOR SENIOR CITIZENS TO RECEIVE A PREFERENTIAL PROPERTY CLASSIFICATION.
PREFILED AND REFERRED TO COMMITTEE ON TAXATION: 12/30/82
HEARING: 1/15
REPORT: 1/21, DO PASS, AS AMENDED
2ND READING: 1/23, DO PASS
3RD READING: 1/26, YEAS: 48; NAYS: 0

TRANSMITTED TO HOUSE: 1/26
REFERRED TO COMMITTEE ON TAXATION: 1/27

Senator Turnage moved to amend Page 2, Lines 1 through 3 by striking this in its entirety. Motion carried.

Senator Norman moved to approve SB 9 as amended. Motion carried.

ACTION TAKEN ON SB 33

Senator Turnage explained that his concern is what to do with this bill because of the wide variety of subjects it deals with. He would prefer to not break it into several different bills. He assigned it to this committee for a ruling. After the matter was thoroughly discussed, Senator Turnage moved that SB 33 be referred to Judiciary Committee with a written recommedation from Chairman Stephens that after thorough examination they will refer the bill to any other committee they feel should be given the opportunity to review the legislation (letter attached as Exhibit II). Motion carried.

Stan Stephens, Chairman

ROLL CALL

RULES COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 1-12

NAME	PRESENT	ABSENT	EXCUSED
Stan Stephens, Chairman	✓		
Frank Hazelbaker, V. Chrm.	✓		
Jean Turnage	✓		
Allen Kolstad	✓		
Ed Smith	✓		
Jack Galt	✓		
Chet Blaylock	✓		
Bill Norman	✓		
Carol Graham	✓		
Paul Boylan	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 13, 19 81

MR. PRESIDENT

We, your committee on RULES

having had under consideration SENATE BILL Bill No. 33

Respectfully report as follows: That SENATE BILL Bill No. 33

accompanied with a cover letter written by the Chairman of the Senate Rules Committee with the recommendation that the Judiciary Committee examine the bill and refer it to any other committee they feel should be given the opportunity to review the legislation since it contains a variety of subject matters,

and, be referred to Senate Judiciary Committee

~~DO PASS~~

Stan Stephens Chairman.

STATE PUB. CO.
Helena, Mont.

EXHIBIT II

The Big Sky Country

MONTANA STATE SENATE

SENATE MAJORITY LEADER
DISTRICT 4

STAN STEPHENS
P.O. BOX 114
CAPITOL STATION
HELENA, MONTANA 59601
PHONE: 406-449-5536

HOME ADDRE
422 THIRD ST
HAVRE, MT 59
PHONE: 265-4

January 13, 1981

Senator Mike Anderson
Chairman, Judiciary Committee
Room 331, State Capitol
Helena, Montana 59620

Dear Mike:

As Chairman of the Senate Rules Committee I have been instructed to pass along the committee's recommendations regarding Senate Bill 33 which we have heard in our committee. Because it has such a variety of subject matters the Rules committee agreed to refer S.B. 33 to Judiciary where they can examine the bill and refer it to any other committee they feel should be given the opportunity to review the legislation.

Sincerely,

Stan Stephens
Senate Majority Leader

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 21, 1981

The tenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present except for Senator Tveit, who was excused.

CONSIDERATION OF SENATE BILL 33:

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA.

Senator Goodover presented the bill as representative of the Legislative Council. Code Commissioner Diana Dowling, explained that in 1975 a mandate was handed down to rearrange the Codes with an eye to eliminating outdated laws, duplication, inconsistencies, and errors in law. This bill, she explained, is part of a continuing effort to accomplish the mandate.

Senator Crippen took issue with the use of the word "revise" in the title, but Ms. Dowling said that any substantive changes made by the Code Committee would be thrown out anyway, since it would be outside their mandate.

Bob Pyfer, of the Legislative Council, then outlined the planned presentation by staff members of Senate Bill 33 (marked Exhibit A, and attached to these minutes). Since each attorney had worked with several different sections, these sections would be covered all at one time, rather than going down through the bill's sections in numerical order.

Cort Harrington, Legislative Council member led with a discussion, in particular, of Section 63 on page 7, title 15. He said that Sections 63-70 involve a problem coordinating a bill passed last session. Chapter 693 replaced sections with other sections, and in doing so the intent of the other bill might not have been accurately reflected.

Laurence Weinberg, attorney with the Department of Revenue, stressed the importance of maintaining the intent, and

presented a copy of the resolution from the Revenue Oversight Committee (marked Exhibit B and attached to these minutes).

General explanation of the proposed changes may be found in the pages of the explanation of the bill, marked Exhibit C and attached to these minutes.

Specifically, Lee Heiman, of the Legislative Council, said that in the bill, on page 4, line 16, following "a", the word "statutory" should be inserted as an amendment. He further proposed to amend page 4, line 15, by striking the words "in this chapter".

Senators S. Brown and Mazurek felt that Section 15 represents a substantive change, and should not be included in the bill. Mr. Pyfer stated that the matter of public employees' holidays was very unclear under present law, and that some clarification seemed to be indicated; but, rather than jeopardize the entire bill, that portion could be dropped.

Senator Berg moved that Section 15 be dropped from Senate Bill 33, and the motion passed unanimously.

Mr. Weinberg then offered an amendment (marked Exhibit D and attached to these minutes) to Section 64, page 52, lines 23 and 24.

Senator S. Brown asked whether the Supreme Court had reviewed the sections on Evidence, and Lee Heiman said that both the Supreme Court and Mr. Duke Crowley, a law professor at the University of Montana, had done so.

Further discussion of Senate Bill 33 was scheduled for Tuesday, January 26, at 10:00 a.m.

Mike Anderson

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 1/21/81

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)			✓
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

SENATE JUDICIARY COMMITTEE

BILL SB 33 VISITORS' REGISTER DATE 1/21/81

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPO
R. Nadeau Jensen	AFSCME, AFL-CIO	SB 33		

HOUSE MEMBERS
OSCAR KVAALEN
CHAIRMAN
REX MANUEL
ROBERT L. MARKS
JOHN VINCENT

SENATE MEMBERS
PAT M. GOODOVER
VICE CHAIRMAN
CHET BLAYLOCK
CARROLL GRAHAM
FRANK HAZELBAKER

Montana Legislative Council
State Capitol
Helena, 59601

(406) 449-3064

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

ELEANOR ECK
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICE

ROBERT PERSON
DIRECTOR, RESEARCH

SHAROLE CONNELLY
DIRECTOR, ACCOUNTING DIVISIO

January 19, 1981

TO: Attorneys

FROM: Bob Pyfer BP

RE: Hearing on Code Commissioner Bill

As you know by previous notice, the Code Commissioner Bill (SB 33, Goodover) will be heard in Senate Judiciary, Room 331, on Wednesday, January 21, at 10 a.m. Diana will give opening remarks, then each attorney will take his turn explaining all of the titles he worked on, including repealers (sec. 251), in the following order:

Cort Harrington	1, 15, 19, 20, 27, 70 (except 70-28-206), 72
Lee Heiman	2, 7 (repeal 11-4305(5), 59-1007), 26, 33, 37, 53
Jim	3, 45, 46, 61
Katherine	5, 13, 16, 39, 75, 76, 85
David	25, 70-28-206
Greg	30, 32, 40, 41, 82
Russ	35, 50, 67, 69, 80, 81

Be prepared to discuss each section in your listed titles. Also select certain sections that you feel should be specifically pointed out to the Committee because of their quasi-substantive or apparently substantive nature; this is necessary because Judiciary Chairman Senator Anderson is inclined to only require you to explain those selected sections and to answer any questions from the Committee.

BP:ee
cc: Diana Dowling
Sen. Mike Anderson

Revenue Oversight Committee Resolution #1
Adopted September 8, 1979

WHEREAS, slight technical difficulties in codifying chapters 693 and 706, Laws of 1979, have arisen because of the Legislature's inadvertent omission of a provision coordinating the two bills; and

WHEREAS, members of the 1979-1981 Revenue Oversight Committee were either members or observers of the House and Senate Taxation Committees during the 1979 Legislature and, as such, followed the progress of the bills closely and understood fully the intent of the legislation.

NOW, THEREFORE, BE IT RESOLVED, the Revenue Oversight Committee declares that in passing Chapters 693 and 706, Laws of 1979, the Legislature clearly intended that section 15-6-134 should read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) all trailers and mobile homes used as permanent dwellings except:

(i) those held by a distributor or dealer of trailers or mobile homes as his stock in trade; and

(ii) those specifically included in another class;

(d) the first $35,000 or less of the market value of any improvement on real property or a trailer or mobile home used as a permanent dwelling and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

Exhibit D.

STATE OF MONTANA

DEPARTMENT OF REVENUE
MITCHELL BUILDING
HELENA, MONTANA 59601

SUGGESTED AMENDMENTS
TO SENATE BILL 33

Amend p. 52, line 23
Following: "The"
Strike: "department's"
Insert: "department of health and environmental sciences'"

Amend p. 52, line 24
Following: line 23
Insert" "and water"

Exhibit C

HOUSE MEMBERS
OSCAR KVAALEN
CHAIRMAN
REX MANUEL
ROBERT L. MARKS
JOHN VINCENT

SENATE MEMBERS
PAT M. GOODOVER
VICE CHAIRMAN
CHET BLAYLOCK
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ROBERT PERSON
DIRECTOR, RESEARCH

SHARON CONNELLY
DIRECTOR, ACCOUNTING DIVISION

ROBERT C. PYFER
DIRECTOR, LEGAL SERVICES

LC 422

1981 Legislature
Code Commissioner Bill - Summary

SENATE Bill No. 33

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA.

Title 1. General Laws and Definitions

Section 1. 1-11-101. Section catchlines cannot be changed by the code commissioner if the catchlines are specifically adopted as part of the law by the legislature. This amendment states this more clearly.

Section 2. 1-11-103. Clarifies provision stating that contents of the MCA other than statute text are generally not part of the law.

Sections 3 through 10. 2-15-131 through 2-15-137. Amends provisions on executive reorganization to insure that future transfers of agencies and functions in the executive branch are covered by the same provisions covering the original executive reorganization of 1971. The amended sections deal with employee rights, property rights, agency rules and orders, pending legal proceedings, existing transactions, references to the agency and federal aid qualifications. As amended, the sections refer to generic "reorganizations of the executive branch", which should be broad enough to cover any future agency transfers or function transfers.

Title 2. State Government Administration

Section 11. 2-15-201. Amend out 2-15-201(10). Section referred to in sentence was repealed by Ch. 571, L. 1979, relating to a proclamation issued by Governor at least 60 days prior to a general election stating time of election and offices to be filled and an offer of reward for arrest and conviction of election law violators. Present law on elections makes the Secretary of State the chief election administrator in the state. The Governor no longer has these duties or anything comparable.

(10)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 27, 1981

The fourteenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present except Senator O'Hara, who was excused.

CONSIDERATION OF SENATE BILL 33:

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA.

A general explanation of the proposed changes may be found in the green pages accompanying Senate Bill 33, which has been marked Exhibit C and attached to the minutes of January 21, 1981.

Lee Heiman, Legislative Council staff member, presented the committee with a joint resolution (marked Exhibit A and attached to these minutes) relative to the rules of evidence (Sections 157 through 179 of Senate Bill 33), discussed during the January 21 meeting. Senator B. Brown agreed to consult with the county attorneys before the committee acts upon the joint resolution. Additionally, regarding the holiday provisions for public employees, all of Section 15 on pages 14 and 15 of this bill will be stricken and included in another bill being considered elsewhere. Lee Heiman suggested that the committee consider inserting the words "Board of Investment" in place of the "department of community affairs" on lines 1 and 2 of page 160, or putting the same change in another bill, as he questioned why the DCA should be involved in a job that really belongs to the Board. He also explained that the words "personal representative" in line 25, page 163, and lines 23 and 24 on page 165, is also meant to include public administrators of estates, as they are appointed to serve as personal representatives.

Katherine Orr, Legislative Council staff member, then took the committee through the portions of the bill that she had worked on. She felt that the committee should possibly add "13-12-207" in the references on page 45, lines 24 and 25, and again on page 46, lines 7 and 8. Senator S. Brown

moved that "13-12-207," be inserted following "by" on page 45, line 24; and again on page 46, line 7. This motion passed unanimously.

Senator Mazurek questioned the changes made in Section 29-51-1217 on page 188, lines 6 and 7, and stated that he felt the reference to "1979" should be left in. Katherine Orr explained that the section had been repealed by Chapter 685 of the session laws of 1979, and so was originally an incorrect reference.

Senator S. Brown felt that the addition of the term "person" on line 14 of page 218, and again in subsection (5) on page 219 represented a substantive change in the law. After researching the matter, Ms. Orr agreed that "person" should be deleted wherever it appears in Section 239 and the words "political entity" by reinstated.

David Niss explained his contribution to the changes dealt with in this bill, dealing mostly with the deletion of obsolete language dealing with civil procedure.

Senators Crippen and Mazurek felt that lines 5 through 9 on page 81 should be left in their original form, even though they may be redundant. Senator Mazurek moved that the entire Section 88 be removed from this bill, to be preserved as it now stands in present law. The motion failed. Senator Crippen then moved to delete subsection (3) of Section 88 and to reinstate the current language of that subsection. The motion carried.

Mike Anderson

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 1/27/81

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)			✓
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

SENATE JUDICIARY COMMITTEE

BILL SB 33 VISITORS' REGISTER DATE 1/27/81

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Lee Heiman	Legislative Council	SB 33		
Dan McGinnis	Montana Magazine C&T	SB 33		
[illegible] Wennemyer	State Bar	SB 33		
Katherine Orr	Legislative Council	SB 33		
Diana Dowling	" "	SB 33		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 11, 1981

The twenty-fifth meeting of the Senate Judiciary Committee was called to order by Senator Bob Brown, in the absence of both the Chairman and the Vice-chairman on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

FURTHER CONSIDERATION OF SENATE BILL 33:

David Niss continued in his explanation for the changes being suggested in the portions of the bill to which he had been assigned.

Senator Mazurek raised the question in Section 97 on page 86, line 23, that the deletion should not have been made. He then moved that in Section 99, on page 87, line 13, following "of", the words ", member of the family of" be inserted. His motion carried unanimously.

Senator S. Brown moved that in Section 100, on page 88, line 24, following "allowed", David Niss bring back a proper amendment inserting the correct language to limit the number of peremptory challenges, in cases when a jury of more than six but fewer than twelve is agreed to. Senator Crippen was the only opposing vote to this amendment.

Senator Mazurek moved that in Section 103, on page 91, 25-8-102 be returned to its original language. This motion passed unanimously. He then moved that Section 115 on page 97 be stricken in its entirety. This motion passed unanimously.

On page 98, line 16, Senator Crippen moved that the wording "ministers of the gospel" be reinstated in place of the new language, as this represented, in his opinion, a substantive change. Senator S. Brown offered a substitute motion that Section 116 be stricken from the bill in its entirety, and this motion passed unanimously.

DISPOSITION OF SENATE BILL 216:

Senator Crippen moved that the bill DO PASS, and his motion carried unanimously.

moved that "13-12-207," be inserted following "by" on page 45, line 24; and again on page 46, line 7. This motion passed unanimously.

Senator Mazurek questioned the changes made in Section 29-51-1217 on page 188, lines 6 and 7, and stated that he felt the reference to "1979" should be left in. Katherine Orr explained that the section had been repealed by Chapter 685 of the session laws of 1979, and so was originally an incorrect reference.

Senator S. Brown felt that the addition of the term "person" on line 14 of page 218, and again in subsection (5) on page 219 represented a substantive change in the law. After researching the matter, Ms. Orr agreed that "person" should be deleted wherever it appears in Section 239 and the words "political entity" by reinstated.

David Niss explained his contribution to the changes dealt with in this bill, dealing mostly with the deletion of obsolete language dealing with civil procedure.

Senators Crippen and Mazurek felt that lines 5 through 9 on page 81 should be left in their original form, even though they may be redundant. Senator Mazurek moved that the entire Section 88 be removed from this bill, to be preserved as it now stands in present law. The motion failed. Senator Crippen then moved to delete subsection (3) of Section 88 and to reinstate the current language of that subsection. The motion carried.

Mike Anderson

Senator Anderson
Chairman, Judiciary Committee

DISPOSITION OF SENATE BILL 33:

Senator Crippen moved that the bill DO PASS AS AMENDED, and the motion carried unanimously. The amendments are shown on the attached Committee Report.

DISPOSITION OF SENATE BILL 224:

Senator O'Hara moved that the bill be laid on the table, and his motion carried unanimously.

DISPOSITION OF SENATE BILL 277:

Senator Halligan moved that the bill be amended as shown on the attached Committee Report. His motion carried unanimously. Senator Halligan moved that the bill DO PASS AS AMENDED, and the motion carried unanimously.

Senator Anderson
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date Feb. 18, 198

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

(3)

STANDING COMMITTEE REPORT

February 18, 19 31

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 33

Respectfully report as follows: That SENATE Bill No. 33

be amended as follows:

1. Page 4, line 15.
Following: "provided"
Strike: "in this chapter"

2. Page 14, line 11 through line 10 on page 15.
Strike: Section 15 in its entirety.

3. Page 28, line 17 through line 19 on page 29.
Strike: Section 30 in its entirety.

4. Page 45, line 24.
Following: "by"
Insert: "13-12-207,"
Following: "13-12-212"
Insert: ","

DO PASS

C/C

continued

Chairman.

STATE PUB. CO.
Helena, Mont.

February 18, 1981

18. Page 116.
Following: line 11
Insert: "NEW SECTION. Section 141. Coordination. If Senate Bill 468 is passed and approved amending 25-31-506 to increase the maximum jurisdictional amount in justice courts, the amendment in Section 14 or such other section of this act amending 25-31-506 is void and of no effect."

19. Page 119, line 23 through line 4 on page 121.
Strike: Sections 146 and 147 in their entirety.

20. Page 121, lines 13 through 24.
Strike: Section 149 in its entirety.

21. Page 125, line 25 through line 14 on page 126.
Strike: Section 154 in its entirety.

22. Page 127, line 2 through line 6 on page 144.
Strike: Sections 156 through 179 in their entirety.

23. Page 167.
Following: line 24
Strike: "district court shall have full power to liquidate the"

24. Page 168, line 1.
Following: "corporation"
Insert: "may be liquidated"

25. Page 171, line 25 through line 10 on page 172.
Strike: Section 206 in its entirety.

26. Page 175, line 1 through line 4 on page 177.
Strike: Section 211 in its entirety.

27. Page 181, line 20.
Following: "chapter"
Strike: "and in board rules"

28. Page 187, line 13 through line 8 on page 188.
Strike: Section 219 in its entirety.

29. Page 192, line 11 through line 19 on page 193.
Strike: Section 222 in its entirety.

30. Page 200, line 12 through line 7 on page 203.
Strike: Section 230 in its entirety.

31. Page 218, line 5 through line 8 on page 221.
Strike: Sections 239 and 240 in their entirety.

32. Page 222, line 10 through line 14 on page 223.
Strike: Section 244 in its entirety.

continued

Chairman.

STATE PUB. CO.
Helena, Mont.

February 18, 19 81

5. Page 46, line 7.
Following: "by"
Insert: "13-12-207,"
Following: "13-12-212"
Insert: ","

6. Page 47, line 18 through line 14 on page 48.
Strike: Section 61 in its entirety.

7. Page 52, line 23.
Following: "The"
Strike: "department's"
Insert: "department of health and environmental science's"
Following: "air"
Insert: "and water"

8. Page 75, line 21 through line 10 on page 76.
Strike: Section 81 in its entirety.

9. Page 79, line 21.
Following: "If"
Strike: "_____"
Insert: "Senate"
Following: "No."
Strike: "____ [LC 413]"
Insert: "121"

10. Page 81, lines 5 through 9.
Following: "~~(3)~~"
Insert: stricken language

11. Page 86, line 23.
Following: line 22
Insert: stricken language

12. Page 88, line 24.
Following: "allowed"
Insert: ", not to exceed 4"

13. Page 89, line 24 through line 4 on page 90.
Strike: all underlined language
Insert: all stricken language

14. Page 91, lines 3 through 13.
Strike: Section 103 in its entirety

15. Page 94, line 20 through line 1 on page 95.
Strike: Section 110 in its entirety.

16. Page 97, line 5 through line 10 on page 109.
Strike: Sections 115 through 127 in their entirety.

17. Page 114, lines 3 through 10.
Strike: Section 136 in its entirety.

continued

Chairman.

STATE PUB. CO.
Helena, Mont.

February 18, 19 91

33. Page 232, line 2.
Following: "25-1-111"
Strike: ", 25-5-301,"

34. Page 232, line 4.
Following: line 3
Strike: line 4 in its entirety.
Renumber: subsequent subsections

And, as so amended,
DO PASS

Mike Anderson Chairman.

STATE PUB. CO.
Helena, Mont.

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date Feb. 18, 198

NAME	PRESENT	ABSENT	EXCUSED
~~Anderson, Mike, Chr. (R)~~	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

(3)

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE House
March 24, 1981

The House Judiciary Committee was called to order at 8:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser. All members were present. Jim Lear, Legislative Council, was present.

SENATE BILL 33 DIANA DOWLING, Legislative Council, presenting the bill for SENATOR GOODOVER, stated this bill is to amend numerous sections consistent with the mandate to the Code Commissioner contained in 1-11-204. In 1975 the council started to recodify the laws. Work was performed for four years and the bill was passed in 1979. During the process the council read three million words in which there were many inconsistencies and errors. No one was comparing the various sections. DOWLING believed this bill will eliminate archaic, duplicative and inconsistent laws and clarify the existing law. The information is contained in one bill this session as compared to many bills as in previous sessions. The entire legal staff of the legislative council has worked on the bill. The council has no personal interest in the bill.

BOB PYFER, representing Code Commissioner, stated each attorney from the Legislative Council would present his sections of the bill.

CORT HARRINGTON, representing the Code Commissioner, stated Title 1, section 1 deals with the Code Commissioner and recodification. The amendment on page 2, lines 21-22 clarifies the language. During the '79 session there was a bill that reorganized the property classification system. A property break was given to low income people. Section 16-6-116 was amended and then repealed. The code commissioner should have codified this in the new section. This amendment puts in the language of the bill in 15-6-134. Only the legislature can reenact it.

HARRINGTON stated that different sections amended laws repealed. Section 72 deals with retirement system. An error is being corrected in this section which should be 19-11-512(6) instead of 19-11-512(5). Line 5, page 67 should be subsection 6 instead of subsection 5. Section 73 deals with school personnel. The amendments made will clarify the law.

Section 74, the use of sovereignty, is being removed. Section 75 removes redundant language. In Section 78 of title 13, chapter 18 is being repealed. Section 79 changes the wording from police officer to peace officer since that is defined and police officer is not. Section 133 has language that was inconsistent. The new wording makes it constitutional. Section 182 removes a reference to dower, which is obsolete. Section 183 also removes reference to dower. Section 184 changes judgment roll to judicial record.

Section 186 lists a definition of alternative form for inheritance taxes. Section 338 refers to failure to use land for proper use. This amendment corrects a wrong cite. The repealers in subsection 3 include section 196, which repeals reference to the Twin Bridges Children's Home. Subsection 7, 72-11-334, is repealed by the supreme court. It conflicts with the Uniform Probate Code.

LEE HEIMAN, representing Code Commissioner, stated Title 2, sections 3-10 refer to executive reorganization. Title 2, chapter 15 passed the Reorganization Act in 1973, which was amended. Because of the controversy between himself and state personnel, HEIMAN felt that section 3 should be stricken from the bill. It should be up to the courts to decide about section 3.

Section 10 would make the rest of the sections effective immediately. Section 11, line 16 was repealed. The governor has no proclamation duties. Page 10, line 22 changes the wording from "a dental profession" to "as a dentist or dental hygienist". It was felt a dental hygienist should be licensed. Section 13 deals with changing the wording from "the next session of the legislature" to "each biennium". Section 14, 2c is changed to sub 3. A subsection was added that should have been a section. Section 15 corrects the spelling of Board of Personnel.

Title 7, section 20 lists the wrong reference to the oath of office. Sections 21, 22, and 23 all have the wrong reference to the law. Page 21, line 18 refers to parts 1-6, which should be 1-7. Page 22, line 13 of the bill the language is repealed on the next page.

Section 24 "or resolution" is removed. Sections 25 and 26 remove reference to coroner and salary. Section 27 clarifies that only certain election result documents can be obtained free from the county clerk and not all records.

Section 28 changes the month from May to January for the commencement of term of office at a municipal election. Section 29 indicates the wrong program where money is collected. Sections 30, 31, and 32 refer to the bill passed last session without a codification instruction. This new language provides that. Section 34 concerns warrants. County warrants are eliminated from the section since it is about high school warrants and the interest rate that is picked up by the trustees. Subsection 3 of section 34 concerns the county commissioners. Section 35 at one time involved S.I.D.s. It was enacted and put into the section when they were establishing offstreet parking. When reading the RCM it referred to offstreet parking. Lawyers knew it applied to offstreet parking but various boards did not.

Section 36 changes "act" to "section" as the supreme court has said that "act" means "section". Section 37 deals with the state-

wide system of police retirement. If there is no retirement program the money shall go towards police training.

Section 38 corrects a typographical error from 7-33-2312 to 7-33-2311. Section 39 deals with the new election law. Section 30, page 37, line 14 repeals the section that is bracketed. Sections 41 and 42 both have material that has been repealed. There are Review Board election procedures that are to be used.

Section 43 repeals sections referring to election administration. Sections 44 and 45 deals with nominations. Section 46 deals with water and sewer revenue bonds. Section 48 refers to general obligation bond elections.

REP. TEAGUE asked if it was too premature to strike section 31. HEIMAN felt it should be taken care of with moderation.

REP. EUDAILY asked about the county and high school warrants. HEIMAN replied section 1 and 2 refer to high school warrants and subsection 3 refers to county warrants.

Section 143 repeals part 10 and 11. The same change is reflected on page 153, line 5. Lines 23-25 and line 1 on pages 153 and 154 are rewritten from the model act. Section 145 also comes from the model act. The state of Montana does not have a recorder of deeds. Page 160 lines 14-15 changes state examiner to the department of community affairs.

Section 143 removes the brackets around the chapters. Page 163 line 11 changes probate court to district court. Page 164, line 13 strikes executor or administrator and uses "personal representative". Section 150 pages 1 through 4 is changed to parts 1 through 5. Page 167 there is a typographical error. It should be 33-20-1106 instead of 33-20-1105.

Title 53, page 198 the reference to Montana Children's Center is deleted. Page 199, line 10 "program" is changed to "facilities". Page 200 deletes the reference to the children's center. The Board of Warm Air and Heating and Air Conditioning is repealed.

Subsection 7 repeals all the RCM section that referred to another part that was repealed. Section 9 repeals another codification bill in state personnel plan.

DAVID NISS, representing Code Commissioner, stated page 77, Title 25 deals with civil courts and rules of civil procedure. All of what was in the statutes changed into these rules. The code commissioner has gone back to correct the errors. Article 7, sectio 2 provides that the legislature can change rules of procedure following supreme court rulings within two sessions. A lot of what is done is to coordinate statutes with rules on civil

procedure. REP. MATSKO asked if the supreme court rulings are considered more sacred than the constitution. NISS replied, no the rulings are more sacred than the statutes. In several places you will see references except as provided in such-and-such section. Most rulings are now invalid. It was necessary to go back and say statute.

Section 81 deals with marriage license fees charged by the clerk of district court. There was a mistake in current law in that a portion of the fee is to be paid to the battered spouse fund. That program and funding is created in Title 40 of the code. There is no mention in Title 20, Chapter 25 as to where those fees go. Lines 9-20 on page 79 make changes to follow the law in Title 40.

Section 83 changes the rules of civil procedure, which is subject to 6(b). This deals with section 25-1-301, which is extension of time. Rule 6 provides for some of the same thing. Line 10, page 81 deals with serving of papers by the sheriff. Subsection 3 has been combined with subsection 2.

Section 87, lines 3-10 have been stricken from the bill. The rules of procedure already provide for the language that is being removed, that being instances in which a party to a lawsuit may be served with papers by publishing them in the newspaper. Material in Section 88 is stricken because it is covered in the rules of civil procedure.

Section 93 adds language "except as provided in Article II, section 7 of the Montana constitution". The judge is responsible for the jury and the facts except made by the constitution with liable and slander. There the jury has to decide.

Section 96 adds language that parties may agree to peremptory challenges in trial. The reason it is added is because other sections of the state codes provide that parties to lawsuits may agree to the number of the jury, between 6 and 12 members. The law does not state that if you do not agree, how many challenges you get. REP. HANNAH asked what challenges there are in felony and criminal cases. It was replied that would be in title 46.

The Senate Judiciary Committee reinserted language on page 90, being that "The jury must be instructed as provided in Rule 51, M.R.Civ.P." Section 101 of the bill deals with the procedure for challenging a judge in your particular case. Previously it was necessary to file an affidavit stating why you thought the judge was prejudiced. This would eliminate that procedure and when a motion is made to substitute the judge it will be automatically granted.

Section 115 was eliminated by the Senate Judiciary Committee. The original law and changes were confusing concerning civil judges and redemption. Section 112 eliminates sections that are already listed in the bill. Section 121 is a new section which is a co-ordination clause that if Senate Bill 468 is passed then Section 120 regarding counterclaims will be increased from $1,500 to $3,500.

Section 123 refers to the appointment of a guardian. In the case where no application is made the judge shall appoint a guardian on his own motion. This clarifies the law.

Section 146 is stricken from the bill. Subsection 1 of section 130 is eliminated because subsection 2, concerning making a deposit to the court, is used more frequently by the supreme court. Both subsections were taken from the RCM.

Sections that are to be repealed are listed on the last page of the bill. Section 25-7-210 is repealed because it is redundant and it conflicts with Rule 47C.

REP. BENNETT asked if all the stricken language on page 97 will stay in the law. Yes was the reply. REP. BENNETT asked why the reference to oxen, horses, mules, etc. had to be left in the law. It was replied the code commissioners requested the changes. The Senate Judiciary Committee determined that was a substantial change to take out some discriminating language. This would be revamped the next session.

REP. KEEDY asked if there would be any problem with making reference to all the rules in the codes on civil procedure. NISS felt there would be some danger in that. REP. EUDAILY asked about section 149 on page 122 as to why it was eliminated. NISS replied the Senate Judiciary Committee made the change. He would prefer the original language.

GREG PETESCH, representing Code Commissioner, stated title 30, section 134 following "department" the words "of business regulation" are added. Since this deals with metric sizes and no reference to which department is made, the Department of Business Regulations is appropriate.

Section 135 has two changes adding "name" after "partnership" and "or reserved" after "registered". Section 30-13-211 refers back to this section.

Sections 136, 137 and 138 the same changes are made. Corporation is changed to "business". Section 140 eliminates the temporary

provision for boards adopting rules regarding discovery procedures. The temporary provision no longer applies. Section 170 removes archaic language. Annulment of marriage is referred to as declaration of invalidity. Divorce is referred to as dissolution.

Section 190 "absent" is changed to "unlocatable" to be consistent. Section 192 refers to "minerals". The word is defined in 82-4-203(12), of which the (12) is stricken. Section 193 "in" is changed to "or" for clarity. Section 194 refers to the development permits which was repealed last session.

RUSS JOSEPHSON, representing Code Commissioner, stated the court of equity is deleted in Title 35. Section 161 changes the reference from "police officer" to "peace officer".

Section 174 eliminates the Board of Warm Air, Heating, Ventilation and Air Conditioning as it is obsolete. Title 69, section 181 an error in the reference is corrected. Title 80, section 189 deletes "[chapter]" and inserts "part". Since every part has its own penalty the reference is not correct.

JIM LEAR, representing Code Commissioner, stated Title 3, section 16 purports to exhaust the instances in which a court seal is required for various documents. There are approximately 15 other instances where this is referred to. This would remove the statutory conflict. Personal representative replaces the reference to "executor" and "administrator". Section 17 "of natural resources and conservation" is added after department to distinguish which department is meant. Section 172 the board of "pharmacy" is changed to the board of "pharmacists". Section 173 "government" is stricken and "governor" is inserted. Title 61, section 179 the "commissioner of insurance" is changed to the "division of motor vehicles".

KATHRYN ORR, representing Code Commissioner, stated Title 5 corrections are minor. "The president of the senate or in case of his absence or inability then" has been eliminated in Section 18.

Title 13 concerns elections. In the '79 session some of the seetions that were to be deleted were not. The general intent is to simplify these. The reference for Section 54 is obsolete and incorrect. Title 16, section 74 eliminates reference to 33-23-102. Title 39 changes "board" to "board of personnel appeals" for clarity purposes. Title 85 corrects an internal reference. A proclamation of a purpose is no longer required and is repealed in Title 13. REP. EUDAILY asked why material on pages 47 and 48 were deleted. ORR stated that was done in the executive session of the Senate Judiciary Committee. She felt maybe it was because of obsolete language. She would check into it for the committee.

That was the conclusion of the presentation of Senate Bill 33.

VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

SENATE

BILL 33 Date 3/24/81

SPONSOR Goodover

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Jim Hoffman	Helena	Dept of Rev	✓	
Mary Bottomly	Hele	Code Commission	✓	
Bob Pyfer	"	"	✓	
Cal Harrington	Helena	Code Commission	✓	
Russ Fagg	E. Helena	" "	✓	
Jim Lear	E. Helena	" "	✓	
Jo Merin	Helena	Code Commissioner	✓	
Lee Heiman	Helena	"	✓	
DAVID NISS	HELENA	CODE COMMISSIONER	✓	
Diana Dowling	Helena	Self	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Form CS-33
1-81

see their name in the paper for athletics or honor roll, etc.

REP. MATSKO felt much of this dealt with the coverage the press gives the youth. JOHNSON replied it is hard to say. Probation officers have dealt with it from both sides. REP. MATSKO thought the press could have an impact on the manner of youths if they publicized something as the "crime of the century".

REP. CONN asked how many students took part in the high school survey. ELLEN TIDDY, Helena High School, replied everyone in school during the first period class. The whole student body is 1200. From that 2% did not want their names in the paper.

REP. CONN asked if the students who prefer to have their name in the paper usually are the type who like school and are in honor society, athletics, etc. The high school student agreed.

REP. TEAGUE asked if school files would be open. SENATOR TURNAGE replied it would be justice files only.

REP. TEAGUE asked if pictures in the paper have a physological effect, and would the press be able to photograph the youth. VOELLER replied cameras in court are not allowed without the permission of the judge. REP. TEAGUE asked if there would always be a followup article. What if the youth were innocent, would there be a followup? VOELLER replied if he is found innocent the paper would try to give equal treatment and not be biased. If a person is not charged his name would not be printed. REP. TEAGUE further asked if five youths were charged and two of the five were let off, would those two be assured of good press? Yes was the reply.

REP. DAILY asked how many youths were charged and then found innocent. JOHNSON replied usually the youth has been appearing before a probation officer. If a petition is filed against the youth the probation officer would contact the county attorney. Ninety-eight percent are actually adjudicated and found guilty. It is very rare to have him not be guilty.

EXECUTIVE SESSION

SENATE BILL 33 REP. SHELDEN moved do pass.

REP. DAILY moved the amendments do be adopted as in EXHIBIT 3.

JIM LEAR explained the first amendment to strike section 3 in its entirety is because the Department of Administration feels this language is obsolete and is in conflict with the pay plan

structure. This would just strike it from the bill and not repeal it from the law.

The motion carried.

JIM LEAR explained the next three amendments (2-4) are necessary because of subsection 1 being stricken. REP. HANNAH moved amendments 2, 3, and 4 be adopted. The motion carried.

JIM LEAR stated amendment 5 "is" is being inserted to give it sense. The amendment carried after REP. SEIFERT moved its adoption.

REP. BROWN moved the amendments as in EXHIBIT 4. The motion carried with REP. HANNAH opposing.

REP. BROWN moved do pass as amended. The motion carried with HANNAH, CURTISS, and MCLANE voting no.

REP. SEIFERT was assigned to carry the bill on the House Floor.

SENATE BILL 219 REP. HUENNEKENS moved do pass.

REP. KEEDY moved the amendments as in EXHIBIT 5 be adopted.

Subsection 2 on page 1 will be stricken. All of page 2 will come out. The court shall impose the presumptive sentence for such offense as provided in section 2 or in accordance with section 6 or section 5. The amendments restore the list of circumstances and takes out the catch all phrase.

JIM LEAR stated this bill leaves it open to the judge. Page 3, section 2 deals with presumptive sentence bill as amended would be as set forth in section 7. (Amendment 4). The laundry list of offenses are included in the original House Bill 10. This would give the court a range in which to decide. More restrictive guidelines are set up.

REP. KEEDY stated the rest of the bill's amendments are easily understood by looking them over. Some of the new language was taken out of the bill. In this bill there is nothing that provides a procedure of how the court will proceed on hearings. It is too openended. The defendant's interest should be protected.

REP. CONN stated she felt the extensive amending of the bill was to pick up where House Bill 10 left off. REP. KEEDY stated House Bill 10 was still alive in the Senate. He felt it was proper to make the amendments since it was in the scope of the title and the author's basic intent.

Amendments to SB 33

1. Page 4, line 13 through line 4, page 5.
Strike: section 3 in its entirety
Renumber: subsequent sections

2. Page 8, line 4.
Following: "through"
Strike: "9"
Insert: "8"

3. Page 79, line 24.
Following: "section"
Strike: "85"
Insert: "80"

4. Page 80, line 1.
Following: "section"
Strike: "85"
Insert: "80"

5. Page 119, line 21.
Following: "complaint"
Insert: "is"

PROPOSED AMENDMENTS - SB 33

Department of Revenue

1. Page 62, line 7
   Following: "for"
   Insert: "barrows and gilts,"

2. Page 62, line 8
   Following: "3"
   Insert: ","
   Following: "at"
   Strike: "200"
   Insert: "230"

3. Page 62, line 9
   Following: "sows"
   Insert: ",grades 1 to 2,"

4. Page 62, line 10
   Following: line 9
   Strike: "270 to 330"
   Insert: "300 to 350"

(2) If by interlocal agreement or other statutory requirement a part of a county mill levy is not imposed on an incorporated city or town, then the same proportion of the county replacement levy shall be reduced in the incorporated city or town.

(3) The replacement mill levy may be used by the governing body of a local government unit for any purpose authorized by law."

Renumber: subsequent section

And, as amended, do pass. Report adopted.

REPORTS OF SELECT COMMITTEES

FREE CONFERENCE COMMITTEE ON SENATE BILL NO. 33 Report No. 3, April 20, 1981

Mr. President and Speaker of the House:

We, your Free Conference Committee on Senate Bill No. 33, met April 20, 1981, and considered:

House Committee on Judiciary amendments to the third reading copy, dated March 26, 1981; and

House Committee of the Whole amendments to the third reading copy, dated March 30, 1981.

We recommend that:

The Senate accede to Standing Committee amendments no. 1 through 9.

The Senate accede to Committee of the Whole amendment no. 1.

Senate Bill No. 33 be further amended as specified in the clerical instructions.

The reference copy of Senate Bill No. 33 read as specified in the clerical instructions.

The Free Conference Committee Report on Senate Bill No. 33 be adopted.

CLERICAL INSTRUCTIONS:

1. Page 51, line 2.
Following: "on"
Strike: "adjusted gross"

2. Page 51, line 4.
Strike: line 4 in its entirety

FOR THE HOUSE:

Seifert
Anderson
Huennekens

FOR THE SENATE:

Goodover
Mazurek
Olson

FREE CONFERENCE COMMITTEE ON SENATE BILL NO. 42 Report No. 1, April 15, 1981

Mr. President and Speaker of the House:

We, your Free Conference Committee on Senate Bill No. 42, met April 15, 1981, and considered: